



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Secretary of Natural Resources

David K. Paylor
Director

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Regional Director

WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO THE COUNTY OF SUSSEX, VIRGINIA for

GIN HILL SANITARY LANDFILL (SWP 193) and ROBINSON ROAD SANITARY LANDFILL (SWP 107)

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and the County of Sussex, for the purpose of resolving certain alleged violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “County” means the County of Sussex, Virginia.
4. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. “Director” means the Director of the Department of Environmental Quality.
6. “Gin Hill” means the Gin Hill Sanitary Landfill, located in Sussex County, Virginia and permitted under DEQ Solid Waste Permit (“SWP”) Number 193.

7. “Landfills” means the Gin Hill Sanitary Landfill and the Robinson Road Sanitary Landfill, collectively.
8. “Order” means this document, also known as a Consent Order.
9. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. “Robinson Road” means the Robinson Road Sanitary Landfill, located in Sussex County, Virginia and permitted under DEQ Solid Waste Permit (“SWP”) Number 107.
11. “VSWMR” means the Virginia Solid Waste Management Regulations 9 VAC 20-80-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. The Gin Hill Landfill (“Gin Hill”) and the Robinson Road Landfill (“Robinson Road”) are located in Sussex County, Virginia. The landfills are “sanitary landfills”, as that term is defined in 9 VAC 20-80-10 of the VSWMR.
2. The County of Sussex (“County”) is the owner and operator of Robinson Road and is the operator of Gin Hill. The Virginia Department of Health, predecessor in interest to DEQ, issued Solid Waste Permit Nos. 193 and 107 to the County for operation of the respective landfills.
3. On June 13, 2000, the County entered into a Consent Order with DEQ, which required closure and post-closure care for the Landfills.
4. On December 15, 2005, DEQ staff conducted an inspection of Gin Hill. The inspection and a subsequent records review revealed the following:
 - a. As a result of Groundwater Protection Standard (“GPS”) exceedences in May and October 2003 at Gin Hill, the County is required by 9 VAC 20-80-300.B.3.g and the June 13, 2000 Consent Order to submit a Nature and Extent Study (“NES”) or Alternate Source Demonstration. Neither document was received by DEQ.
 - b. Neither an Assessment of Corrective Measures nor a Proposal for Presumptive Remedies was completed to address the May and October 2003 GPS exceedences. At least one of these documents must be completed no later than 180 days from the date of the GPS exceedences, as required by 9 VAC 20-80-310.A.1 and the June 13, 2000 Consent Order.
 - c. The County did not select a remedy that meets the standards set forth in 9 VAC 20-80-310.B.2. The selection is required by 9 VAC 20-80-310.B.1 and the June 13, 2000 Consent Order.

- d. One of the entrances to Gin Hill was not secured, as required by 9 VAC 20-80-250.E.5.d(1).
 - e. A copy of the deed notation notifying a potential purchaser that Gin Hill property was used to manage solid waste was not filed with the Department, as required by 9 VAC 20-80-250.E.5.d(3) and the June 13, 2000 Consent Order.
5. Items C.4a, C.4b, C.4c, and C.4e, above, are partially the result of the County's inability to accurately locate the property boundary due to inaccurate meets and bounds on the recorded survey. The County worked to resolve this issue between April 2005 and March 2006.
6. On December 15, 2005, DEQ staff conducted an inspection of Robinson Road. The inspection revealed the following:
- a. Three large erosional rills have developed on the landfill cap. Trees and areas of bare soil were also observed along the side slopes of the landfill. The County is required by 9 VAC 20-80-259.F.1.a to maintain the integrity and effectiveness of the final cover of the landfill.
 - b. The County did not update the landfill gas management plan for Robinson Road after installing two additional gas probes (GW-4A and GW-4A). A permit amendment is required by 9 VAC 20-80-620.E.1 after such alterations occur.
7. On January 27, 2005, DEQ advised the County of the deficiencies and legal requirements described in items C.4a, C.4b, C.4c, C.4d, and C.6a in Warning Letters issued for each landfill. Corrective action did not progress according to the agreed-upon schedule due to County budgetary and legal concerns; therefore the Department issued Notice of Violation No. 2006-01-PRO-604 for Gin Hill on January 26, 2006 and Warning Letter No. 2006-01-PRO-652 for Robinson Road on January 18, 2006.
8. On February 22, 2006, a meeting was held between representatives of the County and DEQ. A corrective action plan and schedule for both landfills was submitted on March 8, 2006. Since that date, the County has secured the second entrance to Gin Hill (Item C.4d), completed repairs to the landfill cap at Robinson Road (Item C.6a), submitted a revised landfill gas management plan (Item C.6b), submitted the final NES well installation logs, and submitted a Nature and Extent Study and a Proposal for Presumptive Remedies (Items C.4a, C.4b, and C.4c). All remaining compliance actions are incorporated into Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F) and upon consideration of Va. Code § 10.1-1186.2, orders the County, and the County voluntarily agrees that:

1. The previous Consent Special Order issued on June 13, 2000 is terminated;
2. To remedy the alleged violations described above and bring the facilities into compliance, the County shall perform the actions described in Appendix A of this Order; and
3. The County shall pay a civil charge of \$22,800 in settlement of the violations cited in this Order, to be paid as follows:

- a. The County shall pay \$2,280 of the civil charge within 30 days of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include the County's Federal Identification Number.

- b. The County shall satisfy \$20,520 of the civil charge by satisfactorily completing the Supplemental Environmental Project ("SEP") described in Appendix B of this Order. Division of these funds for each convenience center shall be in accordance with the conditions set forth in Appendix B.
- c. The net cost of the SEP to The County shall not be less than the amount set forth in Paragraph D.3.b. If it is, The County shall pay the remaining amount in accordance with Paragraph D.3.a of this Order, unless otherwise agreed to by the Department. "Net costs" means the costs of the project to The County minus any tax savings, low-interest loans, grants and first-year operation cost reductions or other efficiencies.
- d. By signing this Order, the County certifies that it has not commenced performance of the SEP before DEQ identified the violations alleged in this Order and approved the SEP.
- e. The County acknowledges that it is solely responsible for completing the SEP. Any transfer of funds, tasks, or otherwise by the County to a third party shall not relieve the County of its responsibility to complete the SEP as contained in this Order.
- f. In the event the County publicizes the SEP or the SEP results, the County shall state in a prominent manner that the project is part of a settlement with DEQ for an enforcement action.
- g. The Department has the sole discretion to:

- 1) Authorize any alternate SEP proposed by the Facility; and
 - 2) Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
- h. Should the Department determine that the County has not completed the SEP or alternate SEP in a satisfactory manner, the Department shall so notify the County in writing. Within 30 days of being notified, the County shall pay the amount specified in D.3.b and as provided in D.3.a above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the County for good cause shown by the County, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to the County for Gin Hill on January 23, 2006 and the Warning Letter issued to the County for Robinson Road on January 18, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Landfill as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the County admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The County declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by the County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders

as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The County shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the County. Notwithstanding the foregoing, the County agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the County. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, the County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 9/26/06, ~~2006~~

Gerard Seeley, Jr.
Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

The County of Sussex voluntarily agrees to the issuance of this Order.

Date: 8/15/2006

By: Mary E. Jones
Mary E. Jones, County Administrator
County of Sussex

Commonwealth/State of Virginia
City/County of Sussex

The foregoing document was signed and acknowledged before me this 15th day of
August, 2006, by MARY E JONES, who is
(Name)

County Administrator of the County, on behalf of the County of Sussex.
(Title)

Deborah A. Davis
Notary Public

My commission expires: 12/31/08

Commissioned AS
Deborah Davis-Jenkins

APPENDIX A
GIN HILL SANITARY LANDFILL
ROBINSON ROAD SANITARY LANDFILL

1. **No later than November 1, 2006**, the County shall complete a survey and prepare a plat of the Gin Hill property. The plat shall include the components required by 9 VAC 20-80-250.E.5.d(2) and shall be filed with the local land recording authority **no later than November 10, 2006**.
2. **No later than November 30, 2006**, the County shall submit a copy of the deed notation and plat required for Gin Hill by 9 VAC 20-80-250.E.5.d(3) to DEQ.
3. The County shall submit a Corrective Action Plan for Gin Hill, prepared in accordance with 9 VAC 20-80-310.B, **no later than 180 days from DEQ's notification to the County to prepare such a plan**. Upon approval by DEQ, the County shall implement the plan in accordance 9 VAC 20-80-310.C.
4. The County shall submit a Corrective Action Plan for Robinson Road, prepared in accordance with 9 VAC 20-80-310.B, **no later than 180 days from DEQ's notification to the County to prepare such a plan**. Upon approval by DEQ, the County shall implement the plan in accordance 9 VAC 20-80-310.C.
5. At Gin Hill all trees shall be removed; disturbed areas shall be repaired and stabilized; eroded areas shall be filled, stabilized and seeded; the abandoned vehicle shall be removed; and a barrier shall be constructed on the southeast boundary to prohibit vehicular traffic. All of these activities shall be completed **no later than September 30, 2006**.
6. The County shall conduct post-closure care at Robinson Road **until May 23, 2032**, unless the period of post-closure care is modified pursuant to 9 VAC 20-80-250.F.2 or 3, or unless the period of post-closure care is extended to meet the requirements of corrective action.
7. The County shall continue post-closure care at Gin Hill in accordance with 9 VAC 25-80-250.F.
8. **No later than 90 days after** completion of post-closure care for each of the Landfills, the County shall submit to DEQ the certification accompanied by an evaluation of the Landfill's potential for harm to human health and the environment, as required by 9 VAC 20-80-250.F.6.
9. Unless otherwise directed, all submissions required by Appendix A shall be sent to:

Mason Pritchett
DEQ - Groundwater & Corrective Action
629 East Main Street
Richmond, Virginia 23219

Rob Timmins
DEQ Waste Division
4949-A Cox Road
Glen Allen, Virginia 23060

**APPENDIX B
SUSSEX COUNTY
SUPPLEMENTAL ENVIRONMENTAL PROJECT**

1. **No later than 6 months from the date of the Order**, the County shall establish a separate fund within its budget (“Fund”), which shall be solely used for costs associated with the purchase of land for and construction of two solid waste convenience centers within the western portion of the County. The fund shall initially contain at least \$20,520, of which \$10,260 shall be dedicated to the purchase of land for and construction of each convenience center. The purpose, date and amount of all debits shall be maintained by the County.
2. **No later than 18 months from the date of this Order**, the County shall purchase land and complete construction on the first solid waste convenience center (“first convenience center”), utilizing up to \$10,260 from the Fund. Any costs associated with the first convenience center in excess of \$10,260 shall be paid by the County and may not be borrowed from the \$10,260 dedicated to the second convenience center. Any portion of the \$10,260 dedicated to the first convenience center that is left unspent after construction is complete may be credited toward the purchase of land for and construction of the second convenience center.
 - a. If the County does not purchase land for and complete construction of the first convenience center **prior to 18 months from the date of this Order**, the County shall pay \$10,260 to DEQ as specified in Paragraph D.3.a. Such payment shall be made **no later than 19 months from the Date of this Order**.
 - b. If the County determines that it cannot construct the first convenience center as required by the SEP, the County shall notify DEQ within 15 days of such a determination. Payment of \$10,260 shall be made to DEQ in accordance with Paragraph D.3.a **within 30 days of such notification**.
3. **No later than 36 months from the date of this Order**, the County shall purchase land and complete construction on the second solid waste convenience center (“second convenience center”).
 - a. If the County does not purchase land for and complete construction of the second convenience center **prior to 36 months from the date of this Order**, the County shall pay \$10,260 to DEQ as specified in Paragraph D.3.a. Such payment shall be made **no later than 37 months from the Date of this Order**.
 - b. If the County determines that it cannot construct the second convenience center as required by the SEP, the County shall notify DEQ within 15 days of such a determination. Payment of \$10,260 shall be made to DEQ in accordance with Paragraph D.3.a **within 30 days of such notification**.
4. **Within 15 days of the date that construction is complete on the first convenience center**, the County shall notify DEQ that construction is complete. Notification shall include a statement signed by the County Administrator or Treasurer, certifying the net costs associated with the purchase of land for and construction of the first solid waste

convenience center. "Net costs" means the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies. The certification shall include a list of all debits from the account, and the purpose, date and amount of each debit.

5. **Within 30 days of the date that construction is complete on the second convenience center,** the County shall notify DEQ that construction is complete. Notification shall include a statement signed by the County Administrator or Treasurer, certifying the net costs associated with the purchase of land for and construction of that solid waste convenience center. "Net costs" means the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies. The certification shall include a list of all debits from the account, and the purpose, date and amount of each debit. **This notification shall be accompanied by a check for the balance of any remaining monies in the Fund. Payment shall be made in accordance with Paragraph D.3.a.**

6. Unless otherwise directed, all submissions required by Appendix B shall be sent to:

Allison Dunaway
VA DEQ - PRO
4949-A Cox Road
Glen Allen, Virginia 23060